

1                                   A bill to be entitled  
 2           An act relating to adult protective services; amending s.  
 3           415.102, F.S.; redefining the terms "abuse" and "neglect";  
 4           amending s. 415.1051, F.S.; providing that the Department  
 5           of Children and Family Services may petition the court for  
 6           an order authorizing protective services for a vulnerable  
 7           adult in need of services; providing an effective date.

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 9   Be It Enacted by the Legislature of the State of Florida:

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 11           Section 1. Subsections (1) and (15) of section 415.102,  
 12           Florida Statutes, are amended to read:

13           415.102 Definitions of terms used in ss. 415.101-  
 14           415.113.--As used in ss. 415.101-415.113, the term:

15           (1) "Abuse" means any willful act or threatened act by a  
 16           relative, caregiver, or household member that causes or is  
 17           likely to cause significant impairment to a vulnerable adult's  
 18           physical, mental, or emotional health. Abuse includes acts and  
 19           omissions.

20           (15) "Neglect" means the failure or omission on the part  
 21           of the caregiver or vulnerable adult to provide the care,  
 22           supervision, and services necessary to maintain the physical and  
 23           mental health of the vulnerable adult, including, but not  
 24           limited to, food, clothing, medicine, shelter, supervision, and  
 25           medical services, that a prudent person would consider essential  
 26           for the well-being of a vulnerable adult. The term "neglect"  
 27           also means the failure of a caregiver or vulnerable adult to  
 28           make a reasonable effort to protect a vulnerable adult from

29 | abuse, neglect, or exploitation by others. "Neglect" is repeated  
 30 | conduct or a single incident of carelessness which produces or  
 31 | could reasonably be expected to result in serious physical or  
 32 | psychological injury or a substantial risk of death.

33 | Section 2. Subsection (1) of section 415.1051, Florida  
 34 | Statutes, is amended to read:

35 | 415.1051 Protective services interventions when capacity  
 36 | to consent is lacking; nonemergencies; emergencies; orders;  
 37 | limitations.--

38 | (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If  
 39 | the department has reasonable cause to believe that a vulnerable  
 40 | adult or a vulnerable adult in need of services is being abused,  
 41 | neglected, or exploited and is in need of protective services  
 42 | but lacks the capacity to consent to protective services, the  
 43 | department shall petition the court for an order authorizing the  
 44 | provision of protective services.

45 | (a) Nonemergency protective services petition.--The  
 46 | petition must state the name, age, and address of the vulnerable  
 47 | adult, allege specific facts sufficient to show that the  
 48 | vulnerable adult is in need of protective services and lacks the  
 49 | capacity to consent to them, and indicate the services needed.

50 | (b) Notice.--Notice of the filing of the petition and a  
 51 | copy of the petition must be given to the vulnerable adult, to  
 52 | that person's spouse, guardian, and legal counsel, and, when  
 53 | known, to the adult children or next of kin of the vulnerable  
 54 | adult. Such notice must be given at least 5 days before the  
 55 | hearing.

56 | (c) Hearing.--

57 | 1. The court shall set the case for hearing within 14 days  
58 | after the filing of the petition. The vulnerable adult and any  
59 | person given notice of the filing of the petition have the right  
60 | to be present at the hearing. The department must make  
61 | reasonable efforts to ensure the presence of the vulnerable  
62 | adult at the hearing.

63 | 2. The vulnerable adult has the right to be represented by  
64 | legal counsel at the hearing. The court shall appoint legal  
65 | counsel to represent a vulnerable adult who is without legal  
66 | representation.

67 | 3. The court shall determine whether:

68 | a. Protective services, including in-home services, are  
69 | necessary.

70 | b. The vulnerable adult lacks the capacity to consent to  
71 | the provision of such services.

72 | (d) Hearing findings.--If at the hearing the court finds  
73 | by clear and convincing evidence that the vulnerable adult is in  
74 | need of protective services and lacks the capacity to consent,  
75 | the court may issue an order authorizing the provision of  
76 | protective services. If an order for protective services is  
77 | issued, it must include a statement of the services to be  
78 | provided and designate an individual or agency to be responsible  
79 | for performing or obtaining the essential services on behalf of  
80 | the vulnerable adult or otherwise consenting to protective  
81 | services on behalf of the vulnerable adult.

82 | (e) Continued protective services.--

83 1. No more than 60 days after the date of the order  
84 authorizing the provision of protective services, the department  
85 shall petition the court to determine whether:

86 a. Protective services will be continued with the consent  
87 of the vulnerable adult pursuant to subsection (1);

88 b. Protective services will be continued for the  
89 vulnerable adult who lacks capacity;

90 c. Protective services will be discontinued; or

91 d. A petition for guardianship should be filed pursuant to  
92 chapter 744.

93 2. If the court determines that a petition for  
94 guardianship should be filed pursuant to chapter 744, the court,  
95 for good cause shown, may order continued protective services  
96 until it makes a determination regarding capacity.

97 (f) Costs.--The costs of services ordered under this  
98 section must be paid by the perpetrator if the perpetrator is  
99 financially able to do so; or by third-party reimbursement, if  
100 available. If the vulnerable adult is unable to pay for  
101 guardianship, application may be made to the public guardian for  
102 public guardianship services, if available.

103 Section 3. This act shall take effect upon becoming a law.